

## **NATURAL RESOURCES COMMISSION**

### **Meeting Minutes**

**June 20, 2007**

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at the Auditorium of the Alcott School, 93 Laurel Street, Concord, MA at 7:00 p.m. on Wednesday, June 20, 2007. The following Commissioners were present: Chair, Alexander Easterday; Paul Feshbach-Meriney; Montgomery Lovejoy; Jamie Bemis, Steve Verrill and Associate Commission Member, George Lewis. Delia Kaye, Natural Resources Administrator; Katie Holden, Natural Resources Assistant Administrator; and Cynthia Gray, Natural Resources Administrative Assistant were also present.

### **CONTINUANCES:**

#### **CONCORD ACADEMY – 176 Main Street / NOI – DEP File #137-927**

Peter Williams of Vine Associates appeared. This project involves the installation of a subsurface drainage system in the three athletic fields within the 200-foot Riverfront Area of the Sudbury River, Bordering Land Subject to Flooding and 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Additional information was discussed including revised plans showing slightly larger swales to promote infiltration prior to discharge to the resource area. Concord Engineering reviewed and accepted the drainage calculations.

Paul Feshbach-Meriney moved to close the hearing. Montgomery Lovejoy seconded. All so voted. Montgomery Lovejoy moved to approve Findings A & B. Jamie Bemis seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-45. Paul Feshbach-Meriney seconded. All so voted.

#### **CONCORD WOLD, LLC – Annursnac Hill Rd & Commerford Rd / ANRAD – DEP File #137-929**

Rich Harrington of Stamski and McNary, David Crossman of B & C Associates, Inc. and Applicant, Jim White appeared as well as various members of the Annursnac Hill neighborhood together with Paul J. McManus of EcoTec, Inc.

Alexander Easterday reminded the audience that the purpose of this hearing was to define the wetland resource areas only. Division of Natural Resources staff submitted paperwork to the Natural Heritage & Endangered Species Program requesting vernal pool certification for the vernal pool identified on the property.

David Crossman indicated that there has been a minor adjustment to the wetland line per correspondence received from Chuck Katuska and that they have delineated the upper boundary of the vernal pool.

Alexander Easterday asked Rich Harrington to point out the two parcels off Commerford Road that were not under agreement. Alexander Easterday asked if there were wetlands on these two parcels. Rich Harrington indicated that the two parcels had not been totally flagged. Alexander Easterday asked that offsite resource areas that might have buffer zones or resource areas on the Applicant's property must be shown. These must be shown for the application to be complete. Alexander Easterday indicated that Baptist Brook at the culvert continued west.

The Commission asked about the status of ownership of the property. The Applicant clarified that the owner is Elsie Wright Cahners. The Commission asked that documentation be provided that the person signing as owner is representing Ms. Cahners.

Paul Feshbach-Meriney noted that a different method might be needed to account for the small areas of BVW in the areas where the Applicant has mapped Bank only.. Patches of BVW along the Bank might be staked areas instead of flagged to count as Bordering Vegetated Wetlands

David Crossman indicated they revised the original Bank line to show a shorter, narrower area as Bank. The original Bank flags have been removed, and there are now 2 new flags on one side and 3 new flags on the other.

Jamie Bemis made reference to the vernal pool and that the delineation of the line needed to be carefully done.

David Crossman indicated that this could be accomplished with the next site visit .

Paul McManus of EcoTech requested and was provided a copy of the additional StreamStats information by Rich Harrington. This analysis was conducted for the stream associated with wetland flags WF #351 through WF 363. Paul McManus commended the Commission for holding the line in their request for all resource areas to be referenced. Paul McManus discussed reviewing Bank and Bordering Vegetated Wetlands carefully.

Arlene Connolly, 60 Commerford Road, asked if information was available for review.

Alexander Easterday explained that the public was welcome to review the meeting minutes and the application on file. The Commission will be reviewing materials with their consultant, Chuck Katuska and there would be a subsequent site visit scheduled.

Margaret Dimock, 79 Commerford Road, noted that Baptist Brook runs and floods every year in which the whole area is flooded sometimes 2 or 3 times a year. She expressed concerns that 1), no new information on Benincasa and others had been presented; 2), how could a stream be intermittent if it runs all year long; and 3), decisions were being made in the field without the public.

Alexander Easterday explained that the Commission has requested that all resource areas be shown on the two other parcels; this is an imperfect process and that technical decisions must be made in the field. He encouraged her to again request that the Applicant allow others onsite but

that beyond that, the NRC was not in a position to do the process differently. Al said that anyone is welcome to document information and concerns by letter for submission to the Commission.

Montgomery Lovejoy indicated that decisions are brought back to the public meetings and shared openly at those meetings and will be shown on revised plans and comments accepted.

Jamie Bemis noted the Open Meeting Law.

Marc and Janice Redlich, 5 Wingate Lane, Acton asked for an explanation of Baptist Brook and what work could occur per the Wetland Protection Act Regulations. Alexander Easterday noted that the Regulations clarify extent of jurisdiction. Delia Kaye noted that resource areas needed to be established and the administration of the Regulations is dependent on the activity proposed.

Steve Cadwell of 29 Temple Road asked for clarification of the stream status intermittent v. perennial. Alexander Easterday noted it's a regulatory definition.

Doris Goyette, 593 Annursnac Hill Road, asked if there were three Commissioners on the site visit, if that is considered a public meeting. Alexander Easterday noted that the Commissioners do not deliberate outside of the public hearing.

Paul Feshbach-Meriney indicated that the Applicant does not have to give the public the right to enter a property whereas Commission Members do have the right to enter the property the Applicant is seeking their approval, and that site visits are often required.

Janice Redlich, 5 Wingate Lane, Acton noted that the public has no conception of the wetland flagging. The public can be denied access and that the public wants all information available. Alexander Easterday encouraged the public to talk with the Applicant and review the filing.

This hearing was continued until July 11, 2007. A site visit was scheduled for Wednesday, June 27, 2007 at 1:00 p.m. with a meeting place at Commerford Road.

#### **FREEMAN – 85 Walden Terrace / RDA**

Applicant, Ken Freeman appeared. This project involves constructing a screen porch, a window seat, wraparound farmer's porch and an open unscreened porch within the 100-foot Buffer Zone to Bordering Vegetated Wetland. The proposed work is outside of the 50-foot No Disturb Zone.

Steve Verrill moved to approve the Finding as to no resource area wetland boundaries being determined. Jamie Bemis seconded. All so voted. Paul Feshbach-Meriney moved to issue a Negative #3 Determination with one Special Condition for the review and approval of erosion controls by the Natural Resources Administrator prior to commencement of work. Jamie Bemis seconded. All so voted.

#### **TOWN OF CONCORD, DPW – Main Street (Mill Brook) / NOI – DEP File No. 137-931**

Robert Mellstrom, P.E., Senior Associate and Nicole Sanford, Environmental Scientist, both of Stantec appeared. James Shuris, Town Engineer and William Renault, Public Works Engineer also appeared. This project involves replacing existing catch basins in Main Street, repairing

concrete sections of the Bank of Mill Brook, and rehabilitating the existing culvert that carries Mill Brook under Main Street. Portions of work are in Bank, Land Under Water, Bordering Land Subject to Flooding, the Riverfront Area of the Mill Brook, and the 100-foot Buffer Zone to Bank.

Robert Mellstrom noted that the Mill Brook project would make improvements to the concrete wall against one foundation and provide structural integrity to the culvert section under Main Street. Work is projected to take less than one week. A coffer dam and a temporary pipe will divert the brook during low flow.

Steve Verrill asked about the elevations and what did they represent? Robert Mellstrom indicated that water at those noted elevations gets backed up.

Nicole Sanford noted a 500-foot temporary impact to Riverfront Area regarding the catch basin replacements.

Katie Holden stated a list of existing species had been completed and a planting plan would be established.

Steve Verrill noted the differences in flow in the stone arch.

This hearing is continued to July 11, 2007 at which time the Commission expects to close the hearing and issue a permit.

#### **THOREAU SCHOOL – 29 Prairie Street / NOI – DEP File #137-933**

Susan Erickson, a 4<sup>th</sup> Grade Teacher at the Thoreau School, appeared with John Shipe, P.E., and Diane Kablik, the Science Elementary School Curriculum Specialist. This project involves the construction of an ADA/AAB accessible trail on the south side of Thoreau School within Bordering Vegetated Wetland, Bordering Land Subject to Flooding, the 200-foot Riverfront Area of the Assabet River, and 100 feet of Bordering Vegetated Wetland and Bank.

Susan Erickson gave a Powerpoint presentation. Susan Erickson indicated that this project was to promote awareness of the River and the surrounding wetlands. Chris Whelan, Town Manager has noted his approval of the project. Town Counsel has expressed safety issues. A firm and stable surface is required in this project to be ADA accessible but it must not exceed a 5% slope. A 36-inch wide trail is the minimum required for wheelchair accessibility. Approximately 100 feet of the trail will be bituminous concrete, all of which is proposed in the 100year floodplain. Some shrubs and saplings will be removed, but nothing larger than 2-inch dbh is proposed. Approximately 65 feet of boardwalk constructed on helical piers is proposed in BLSF and BVW. Clearing an upland island will take place by the river for the students to sit. For safety, a gated fence will be installed. Maintenance will be accomplished by utilizing the parent-teacher group. Shirley Street was reviewed as an alternative site.

John Shipe discussed additional elements of the project. The proposed path would be approximately 400 feet in length. The path goes through the woods and avoids the larger trees. There would be some minor regrading involved with this project. Compensatory storage will be

created underneath the boardwalk. The Bordering Vegetated Wetland alteration is 1,550 square feet, 294 square feet of which will be shading impacts from the boardwalk. Because this is a limited project, no Riverfront Analysis was conducted.

Alexander Easterday raised the issue that this project is more extensive than a catwalk or footbridge and that the project narrative should be amended to include a Riverfront Analysis. Alexander Easterday also asked if alternatives to paving were discussed.

John Shipe indicated that asphalt would be used in the area that would be flooded as water will move sediment, the path would become saturated and erosion would take place. A letter was submitted with general comments by Deborah Ryan, Architectural Accessibility Specialist of Deborah A. Ryan & Associates.

Susan Erickson indicated that parent involvement together with local Cub Scout packs would help with maintenance of the path. Alexander Easterday requested a brief Management Plan be supplied.

Jamie Bemis raised concerns about the connection of the boardwalk and the spacing between the boards. Could the boardwalk be raised?

Chris Sgarzi, 33 Maple Street, expressed concerns about holding the boardwalk down and the cost involved with the project.

John Shipe indicated that no wetland replication was proposed. Katie Holden indicated that any wetland impact would require replication.

Hasso Ewing, 299 Strawberry Hill Road, suggested that the Commission consider runoff issues, construction impacts, and maintenance of invasives without herbicides. Hasso Ewing also suggested the use of a weed whip instead of a mower, and that she considered mitigation plantings to be appropriate compensation for BVW.

Shelly Amster, 44 Prairie Street, expressed concern that there had already been enormous damage from a previous school and was concerned with long-term maintenance and vandalism of the property.

Becky Shannon of the School Committee expressed her full support for the proposed project.

Sue Barron, 180 Harrington Avenue, expressed that there would be parent involvement in this project.

Sally Farrow, 69 Pleasant Street, indicated that the Thoreau School is unique being on the river.

Bea Schoch, 6 Shirley Street, expressed concern about keeping this project as an outdoor classroom and keeping it natural. She is concerned with picnic tables being a gathering place.

This hearing was continued to the July 11, 2007 meeting.

**EDWARDS – 65 Mattison Drive /NOI – DEP File #137-935**

Hasso Ewing, Ewing Landscape & Gardens, appeared on behalf of the Applicant. This project involves after-the-fact restoration of non-native invasive species control within the 100-foot Buffer Zone to Bank.

Hasso Ewing indicated there is a Conservation Restriction for property along Mattison Drive. The DNR will send a letter to property owners that hold a portion of the Conservation Restriction to remind them of the CR terms. Mowing and pulling is proposed to remove invasives. Asiatic Bittersweet around the pond area is a concern. A planting list to control invasives and a weeding/monitoring program with repeat visits is suggested.

Alexander Easterday asked if there was any damage to Bank and if mowing involved.

Hasso Ewing indicated no major damage. The area should be weed-wacked. Different methods in different sections should be considered.

Alexander Easterday indicated that the Conservation Restriction does not allow mowing. No vegetation removal, except for agricultural purposes, is allowed under the Conservation Restriction.

Jamie Bemis suggested a cut and dab methodology with the option of foliar spray .

Steve Verrill suggested the use of a roller with herbicide to be used above the soil.

Hasso Ewing noted that foliar spray would only be used as a last resort to handle a mat of multiflora rose. Any herbicide application would be by a registered licensed pesticide applicator.

Montgomery Lovejoy moved to close the hearing and issue a permit with Special Conditions. Paul Feshbach-Meriney seconded. All so voted. Montgomery Lovejoy moved to approve the Finding. Paul Feshbach-Meriney seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-37. Jamie Bemis seconded. All so voted.

**FINGERLE – 38 Winslow Street / RDA**

Kevin Kieler of Brady-Built Sunrooms appeared together with the Applicants, William and Hannah Fingerle. This project involves removing an addition to an existing single-family dwelling, installing a new sewage disposal system within the 200-foot Riverfront Area of the Assabet River and 100 feet of Bordering Vegetated Wetlands.

Kevin Kieler indicated that the new addition would be constructed on sona tubes. The new septic tank has been moved 10 feet from the current location. This is a low-impact project which should take three days to complete. Applicants have obtained approval from the Board of Health.

Paul Feshbach-Meriney moved to issue a Finding. Montgomery Lovejoy seconded. All so voted. Paul Feshbach-Meriney moved to issue a Negative 2 and 3 Determination of Applicability with Special Conditions that (1) a preconstruction site visit shall be held to review work, including review and approval of erosion controls and limit of work; and (2) after the project has been completed, the Applicant shall submit a letter to the Natural Resources Commission stating that all work has been conducted in accordance with all conditions of the Determination of Applicability. Any changes from the RDA shall be described. Montgomery Lovejoy seconded. All so voted.

**GOODRICH TRUST (Barzilli) – 68 Great Meadow Road / NOI – DEP File #137-936**

Mike Sullivan of Sullivan, Connors and Associates appeared together with Mike Coutu of Sudbury Design Group. This project involves repaving within Great Meadows Road within the 200-foot Riverfront Area of the Concord River and 100 feet to Bordering Vegetated Wetlands, and Estimated Habitat of Rare Wildlife.

Mike Sullivan indicated that in the early '90s, a sophisticated drainage system was installed. The proposed project would involve evaluating the drainage structures, upgrading them and cleaning them out. An erosion control line would be installed off the roadway. There is no change in the grades just a temporary disturbance. As of the date of this hearing, the Applicant has not received any correspondence from Natural Heritage.

Alexander Easterday requested revised calculations for work within Riverfront and BLSF, which were provided.

Alexander Easterday indicated that the Applicant had overpaid the filing fee and that a new check should be cut for the correct amount. Mike Sullivan will bring that to the office.

Katie Holden recommended the use of filter mitts instead of hay bales.

This hearing was continued to the July 11, 2007 meeting.

**REQUEST FOR EXTENSION PERMIT**

**NORMANDY CONCORD ACQUISITION LLC – 300 Baker Avenue – DEP File #137-625**

Attorneys Cheray Shein and Daniel Holmes of Lerner & Holmes, P.C. appeared together with Kevin Daly of The Walsh Company LLC, Andrew Spaulding of Normandy Real Estate Partners and Richard Kosian, P.E. of Beals and Thomas, Inc.

Cheray Shein provided background information regarding this project. In June 2001, an Order of Conditions was issued. Market conditions and occupancy/rents were not favorable at that time. It was not economically feasible to proceed with the project.

Andrew Spaulding gave the Commissioners some background information pertaining to the current owner/applicant, Normandy Concord Acquisition LLC. Current market conditions are

looking more favorable. The Applicant is also in the process of obtaining an extension to their Site Plan approval. The Applicant is not proposing anything new.

Cheray Shein indicated that the applicant has received Planning Board approval for two years. The original wetland delineation was been done in 1997.

The Commission stated the portion of the wetland line pertaining to this project should be reflagged and reviewed by the Natural Resources staff before an Extension is granted.

Andrew Spaulding indicated that the applicant proposed the start of construction in the spring which would last for approximately 9-12 months.

Richard Kosian indicated that stormwater technology had changed a little but that the applicant did not have specifics as to changes to the stormwater system at this time.

Delia Kaye noted receipt of a Memo from William Renault, Public Works Engineer, indicating issues for consideration, those being (1) subwatershed area difference between submittals; (2) pre-development and post-development conditions should consider tailwater from the Assabet River; (3) separation infiltration systems; and (4) maintenance of a stormwater collection trench. These issues must be addressed before the Commission can issue an Extension. Because the request for the extension was submitted more than one month before the permit's expiration, providing this information wouldn't compromise the ability to receive an Extension.

Katie Holden noted that any stormwater design changes would require the Applicant to Request an Amendment to the existing Order of Conditions. Katie Holden suggested extending the Order of Conditions for 6 months to give the applicant enough time to file an Amendment.

This hearing is continued to the July 11, 2007 meeting.

### **CLOSE HEARING/ISSUE PERMIT**

#### **DRISCOLL – 80 Ayrshire Lane, DEP File #137-934**

Paul Feshbach-Meriney moved to approve the Finding. Jamie Bemis seconded. All so voted. Montgomery Lovejoy moved to issue a standard Order of Conditions with Special Conditions 18-42. Jamie Bemis seconded. All so voted.

### **CERTIFICATES OF COMPLIANCE**

#### **BURNS – 455 Bedford Street, DEP File #137-769**

Jamie Bemis moved to issue a Certificate of Compliance with ongoing Conditions. Montgomery Lovejoy seconded. All so voted.



## **OTHER BUSINESS**

**Approve NRC Minutes of May 16, 2007 and June 6, 2007** – tabled.

**Wetlands Setback Policy**-Bring comments to July 11, 2007 Meeting

**Wetland ByLaw Support**-Letter received from the League of Women Voters indicating full support of a wetland bylaw.

**Our Lady Church CR Amendment** – After review, Montgomery Lovejoy moved to approve the Conservation Restriction Amendment, contingent upon receipt of plans showing the new utility line location. Jamie Bemis seconded. All so voted.

**CRSC-Emily Wheeler** – The Commission voted to appoint Emily Wheeler to the Conservation Restriction Stewardship Committee.

**Use of Concord Conservation Land – Metal Detectors** – tabled.

The meeting adjourned at 11:00 p.m.

Respectfully submitted,

Delia Kaye, Natural Resources Administrator

Katherine Holden, Natural Resources Assistant Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant